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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,176	02/17/2004	Paul Van Huis	D-30345-01	9857

7590
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Duncan, SC 29334

EXAMINER

HESS, DOUGLAS A

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/780,176	HUIS ET AL.	
	Examiner	Art Unit	
	Douglas A. Hess	3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-6,11,14,16,17,19,21,22,27-29 and 39-66 is/are pending in the application.
- 4a) Of the above claim(s) 1-4-6,11,14,16,17,19,21,22,27-29,39-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 45,48,49 and 56-64 is/are rejected.
- 7) ☒ Claim(s) 46,47,50-55,65 and 66 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 4 sheets.

- 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: USP 5,732,609 cover sheet
USP 5,078,255 cover sheet

DETAILED ACTION

1. Applicant's election without traverse of Group IV, claims 45-66 in the reply filed on March 27, 2006 is acknowledged.

Also, the examiner thanks the applicant's agent for pointing out that claim 28 falls into Group II and Claim 43 falls into Group I.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 45-66 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 45 recites conveying a string of packaging cushions (all connected) to a primary path and an intermediate path. This is confusing since in claim 45 there is only one string referenced. It appears a cutting or plunging device is necessary to utilize both paths.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3651

5. Claims 45 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Haley USP 5,078,255.

See the attached marked up copy of the Haley Patent cover sheet depicting the claimed features.

6. Claims 45, 49, 56-61, and 64 are rejected under 35 U.S.C. 102(b) as being anticipated by Marschke USP 5,732,609.

See the attached marked up copy of the Marschke Patent cover sheet depicting the claimed features.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 62 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marschke.

Marschke teaches the device as claimed except for showing that his inlet area of his transport conveyor is at a higher elevation (about 4 feet) than the manufacturing outlet elevation. It would have been an obvious matter of design choice as to how the elements of a device are arranged. Since Marschke teaches all of the claimed elements it would have been an obvious design consideration as to the arrangement of the elements based on the working space available and the size of the elements and the flow of the articles handled by the elements, all well within the level of ordinary skill in the art.

Allowable Subject Matter

10. Claims 46, 47, 50-55, 65, and 66 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

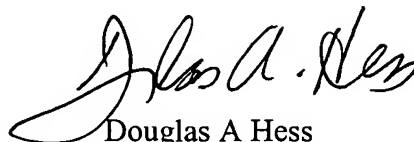
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas A. Hess whose telephone number is 571-272-6915. The examiner can normally be reached on M-Thurs 5:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Douglas A Hess
Primary Examiner
Art Unit 3651

4/5/06

DAH
April 5, 2006



US005732609A

United States Patent [19]

Marschke

[11] Patent Number: 5,732,609

[45] Date of Patent: Mar. 31, 1998

[54] SHEET SAVING DIVERTER FOR CORRUGATOR

[75] Inventor: Carl R. Marschke, Phillips, Wis.

[73] Assignee: Marquip, Inc., Phillips, Wis.

[21] Appl. No.: 816,493

[22] Filed: Mar. 13, 1997

2,978,941	4/1961	Geisler et al.	83/106
3,169,428	2/1965	Owen	83/371
3,262,699	7/1966	Aschenbrenner	83/155
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3,410,183	11/1968	Sarka	83/152
3,550,493	12/1970	Benbenek	83/155
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4,697,486	10/1987	Vulcano	83/167
4,815,924	3/1989	Jastinen	83/93
5,193,423	3/1993	Bakker	83/152

Related U.S. Application Data

[63] Continuation of Ser. No. 427,048, Mar. 24, 1995, abandoned.

[51] Int. Cl.⁶ B26D 5/20

[52] U.S. Cl. 83/92.1; 83/106; 83/155.1; 83/167; 198/369.2; 198/836.1; 271/303

[58] Field of Search 83/165, 157, 92.1, 83/92, 93, 90, 106, 105, 155, 155.1, 152, 167, 86, 94, 342, 345; 271/303, 305, 198, 279; 198/369.2, 370.03, 370.1, 836.1, 303

[56] References Cited

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2,142,812 1/1939 Brustowsky 83/90

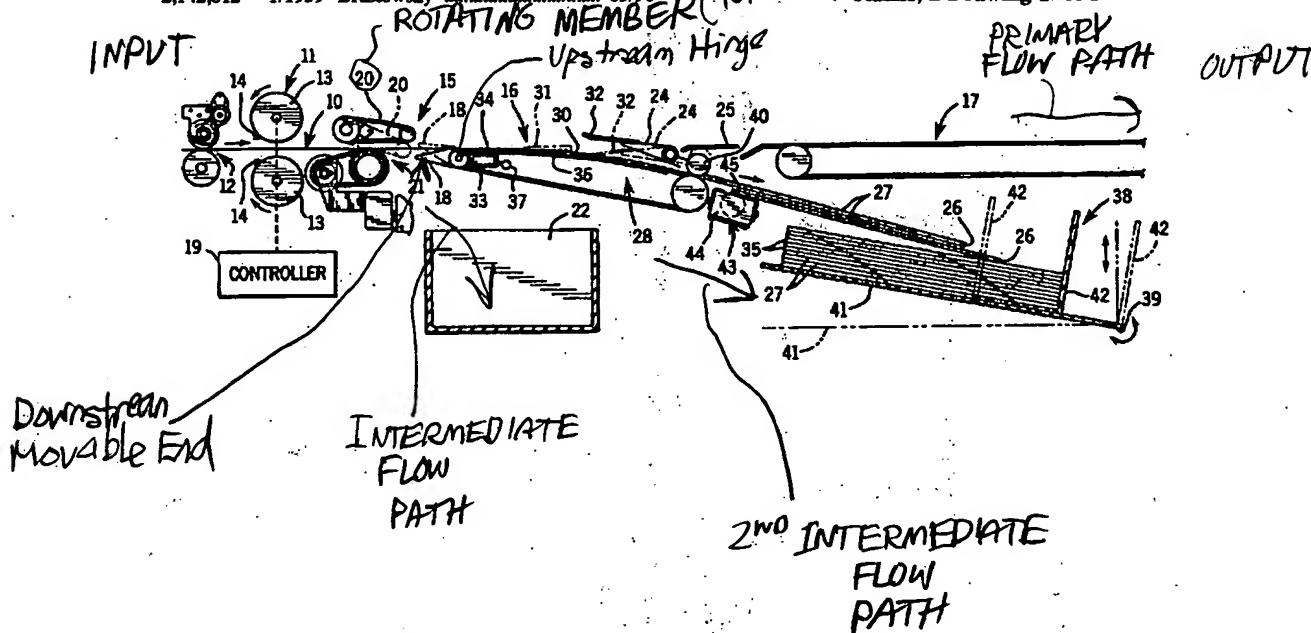
Primary Examiner—Maurina T. Rachuba

Attorney, Agent, or Firm—Andrus, Scales, Starke & Sawall

[57] ABSTRACT

A corrugator dry end includes a sheet saving diverter positioned immediately downstream of a rotary shear and a conventional scrap diverter. Useable sheets may be cut to selected useable lengths, diverted and stacked without damage, and without slowing the corrugator line. The useable sheet diverter includes a vacuum diverting conveyor and vacuum shingler which deliver sheets into an adjustable stacking bin.

7 Claims, 2 Drawing Sheets





US005078255A

United States Patent [19]

Haley

[11] Patent Number: **5,078,255**[45] Date of Patent: **Jan. 7, 1992****[54] COOKIE CONVEYING SYSTEM WITH DIVERTER**[75] Inventor: **Charles T. Haley, Athens, Ga.**[73] Assignee: **Food Machinery Sales, Inc., Athens, Ga.**[21] Appl. No.: **640,885**[22] Filed: **Jan. 14, 1991**[51] Int. Cl.: **B65G 37/00**[52] U.S. Cl.: **198/358; 198/369**[58] Field of Search: **198/358, 369, 592, 861.5, 198/444, 435, 445, 432, 364****[56] References Cited****U.S. PATENT DOCUMENTS**

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FOREIGN PATENT DOCUMENTS

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*Primary Examiner—Robert P. Olszewski**Assistant Examiner—Cheryl L. Gastineau**Attorney, Agent, or Firm—Hopkins & Thomas*

[57]

ABSTRACT

A method and apparatus for diverting lines (19) of cookies (11) being carried on an automated processing line (12) to a standby cookies processing station (18) when the primary processing station (14, 16 or 17) for the cookies (11) has become inoperable. When a primary processing station (14, 16 or 17) breaks down, the vertical diverter conveyors (33, 34 and 36) over which the lines (19) of cookies (11) are moving toward the inoperative primary processing station (14, 16 or 17) are tilted downwardly to divert the cookies (11) from their normal path of movement. A plurality of lateral diverter conveyor system (46) is moved into alignment with the downwardly tilted vertical diverter conveyors (33, 34 and 36). The lateral diverter conveyor system (46) receive the cookies (11) from the downwardly tilted vertical diverter conveyors (33, 34 and 36) and route the cookies (11) toward a standby processing station (18).

13 Claims, 3 Drawing Sheets